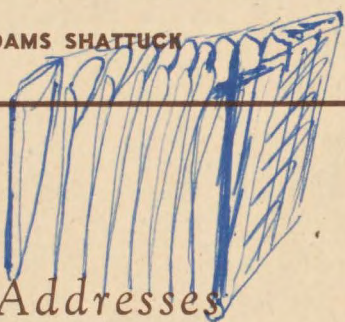


World Peace and the Security of the Home

By JOHN J. McCLOY

Incidence of Federal Taxation Relating to Life Insurance

By MAYO ADAMS SHATTUCK



Addresses

★

**DELIVERED DURING THE
ANNUAL CONVENTION
THE NATIONAL ASSOCIATION
OF LIFE UNDERWRITERS**

CLEVELAND, 1946

Madison -
Ed Sammons

Wolfe

*World Peace and the
Security of the Home*

By JOHN J. McCLOY

*Some Reflections upon the Incidence
Of Federal Taxation Relating to
Policies of Life Insurance*

By MAYO ADAMS SHATTUCK

Addresses

DELIVERED DURING THE
ANNUAL CONVENTION



THE NATIONAL ASSOCIATION
OF LIFE UNDERWRITERS

Cleveland, Ohio



Published by

THE AMERICAN COLLEGE OF
LIFE UNDERWRITERS

and

THE AMERICAN SOCIETY OF CHARTERED
LIFE UNDERWRITERS

FOREWORD

AT THE FIFTY-SEVENTH ANNUAL CONVENTION of the National Association of Life Underwriters held in Cleveland, Ohio, September 11, 12 and 13, 1946, the American College of Life Underwriters in conjunction with the American Society of Chartered Life Underwriters invited two speakers:

1. John J. McCloy, former Assistant Secretary of War, to address the Convention at the American College Hour. Mr. McCloy spoke on "*World Peace and the Security of the Home.*"
2. Mayo Adams Shattuck, lawyer, member of the firm of Haussermann, Davison & Shattuck, Boston, to make the Conferment Address following the conferment of diplomas by the American College of Life Underwriters at the Annual Dinner of the American Society of Chartered Life Underwriters. Mr. Shattuck's Conferment talk was entitled: "*Some Reflections upon the Incidence of Federal Taxation Relating to Policies of Life Insurance.*"

Both addresses are outstanding contributions to the literature of Life Insurance.

The American College of Life Underwriters and the American Society of Chartered Life Underwriters are publishing them jointly, believing that both articles should have wide circulation and be carefully and thoughtfully read, and feeling that the messages imparted by them should urge people into current and future action.

JULIAN S. MYRICK,
Chairman, Board of Trustees
American College of Life Underwriters

World Peace and the Security of the Home

By

JOHN J. McCLOY

*Member of the firm of Milbank, Tweed, Hope,
Hadley & McCloy; former Assistant
Secretary of War.*

SECURITY is an old subject. We have done much talking about it and in the end we have had very little of it. I imagine that today we are less certain of our security than we have ever been, barring certain periods of our early history and perhaps a few periods in the war just concluded.

Two great factors, neither of which in themselves *or together* constitute the full menace to our security, are present today. They each only represent the *nature* of the threats we face—one represents the general economic and social threat ahead of us and we frequently call it “inflation”; and the other represents the great, new, physical forces of destruction we face. We call it the atomic bomb.

In the first instance we have to think about more than the mere devaluation of our currency and in the second instance we have to think about more than the energy which the fission of uranium atoms or their derivatives produce. In the latter case we would have to include all the possible new projectiles which might carry atom bombs to our homes and industries and great biological and other scientific forces designed to expedite our destruction.

I am not going to talk about economic and social threats though they are portentous enough to justify a full discussion before a group of this character. I will say a few words about the bomb and what it portends.

Someone has said that no speaker today, no matter what his subject, can refrain from the temptation of making some reference to the atomic bomb.

Certainly, in a talk on security I cannot refrain from some mention of the bomb, so I shall come back to it.

Whether we are talking about security from enemy attack or security in the shape of bread, butter, education and decent living; whether we are talking about inflation or this terrible force that is wrapped up in all matter, the formula for security is the same. In both cases it is to be derived only from intelligence times effort. We all recognize this in our home and family management. At least all of those who are provident and who have a sense of responsibility, do. Without thought and effort in and around and for the home, the home loses its tone and finally disintegrates. And the society of which it is a part deteriorates by the measure of the number of homes that follow this process.

The appalling thing is that our national or international security is just as vital to our progress, yet there is no phase of our national life to which we as citizens have in the past paid so little individual heed. Only when we have become frightened or enraged, as we were, for example, after the attack on Pearl Harbor, do we devote ourselves to the problem of such security. We then make tremendous demands on those whom we have theretofore rather ignored—namely, our professional military people. We lavish on them all manner of powers and materials and call on them to erect organizations the size and nature of which neither we nor they have ever been called upon to administer in times of peace. No tycoon of business among us has ever been called upon to direct the creation and equipment of an active and controlled organization which has grown from one hundred thousand odd men to fourteen million men in the course of two years. Nor have any of us been called upon to tear such

an organization apart in the course of about six months. Yet, if in the course of building such an organization, directing it and the dissolving of it, the process is not smooth or free from irritations, we are prone to call those who are responsible for the planning stupid or brass hatted, forgetting that it is only our own initial indifference and inertia that we are criticizing.

I do not mean to give a preparedness lecture today. There have been plenty of them in the past and they seem uniformly to have had little effect. I do hope to tell you, if I can, what I think your and my obligations are in the field of national security, without which day to day provision for our homes may become meaningless.

The United States has assumed full grown manhood in a community which does not and cannot govern itself. Generally speaking, we have assumed no part in the management of the world community. For many years we sat on the sidelines and intervened only when from time to time we thought our interests were directly involved. Not feeling any responsibility, we indulged in the comfortable assumption that troubles of the world were largely the result of deplorable bungling or sinister dealings by people much less high-minded than ourselves. Our resultant logic was to keep away from it all, rely on the oceans and busy ourselves with our own affairs. Today, whatever may have been the process by which it came about, whether we like it or whether we do not, the problems of the world have been dumped in our lap. We are in the position today of the eldest son in the household after the death of the parents.

Twenty-nine years ago we were engaged in a great war. Our troops fought mainly in Europe and with their effective employment the war ended. That war was sufficiently destructive and brutal to impel men of good will and good sense, who were to be found in Europe as well as America, to strive by

all means within their power to achieve the formation of a peaceful society. A scheme was devised, mainly by our own representatives, to accomplish this end and the representatives of the other powers were induced to accept it. We like to think that it was the cynical old world ministers who frustrated President Wilson, but these much maligned figures accepted at least three-fourths if not more of all that he proposed. Then we walked away from our own proposal, subsequently blaming France and other nations because they did not adhere as much to the League of Nations as to their own sense of individual security. For twenty years we watched one crisis or episode in international relations after another pass by and with it a golden opportunity to institute collective action to check aggression. All we could and did offer was a combined policy of isolation, pacifism, disarmament and neutrality. At the end of the period we were at war again, and this time we suffered one million casualties. Our national debt increased from approximately \$46 billions to \$270 billions.

In each of the last two World Wars it was *our* strength which was finally decisive but in the First World War, before that strength was fully applied, there were ten million dead and in the war just concluded—the final figures are not yet in—somewhere around twenty million. During the war just finished, as I have said, we had fourteen million men mobilized. We fought a war across the world. Our Air Forces were incomparably the greatest of them all. Our Navy was so much greater than any possible enemy force which at the end could be brought to bear against it that this fortunate disparity was almost incongruous. Our men and our generals fought at least as brilliantly as any others. They made the whole world accessible to their valor. Our scientific developments matched all others. We catastrophically defeated one great empire, and for all practical purposes did it single-handedly; we were the

core of the strength which defeated the other great enemy on the other side of the globe. Besides all this we shipped to our Allies twenty billions of dollars worth of military equipment which, judged in terms of what an armored division costs to equip, is the equivalent of about five hundred and eighty-eight armored divisions; and, in terms of what an infantry division costs, the equivalent of about two thousand such divisions. We shipped about two hundred thousand fully fabricated motor vehicles to Britain in addition to many raw materials and spare parts. We shipped around three hundred thousand such vehicles to the Russians and with this shipment made the famed Red Army mobile in a modern sense. We shipped an air force to Great Britain, as General Marshall has pointed out, equal to four air forces the size of our Ninth, which was the largest air force in the world. In addition we shipped the equivalent of two such air forces to Russia. Besides this, we substantially helped to maintain the entire economy of England. We provided Russia with food, raw materials and power equipment which greatly bolstered her defense against the Nazis. I could go on describing the extent and contribution of our war effort but I think this is sufficient to give some concept of its scope.

Yet with all this prodigious strength the might of which has yet to be fully recognized by the world or even by ourselves, not one of the aggressors hesitated an instant to plunge the world into this cataclysm of World War II through any consideration for the influence of the United States. Presidents Hoover and Roosevelt sent notes and personal messages to stay Hitler and Mussolini but our influence to avoid the war was just about nil. Indeed, in a very real sense it can be said that our utter lack of preparation for war was an inducement to war. Each of the aggressors felt that by our conduct and policies in international relations, which meant to them only pacifism and neutrality, and by

our lack of means to fight within a measurable period of time, they could readily get away with the swag before we could bring any effective influence to bear against them. Even though they had seen the spectacle of American intervention in World War I, they realized that it had taken us two years to become involved, another year fully to engage our troops, and that we never succeeded in getting any of our own airplanes or artillery into the fight at all. Not only were the aggressors convinced that nothing effective could be done by us to stop their violence before they achieved their ends, but the smaller nations were likewise convinced that there was nothing that we could do to keep their countries from being overrun. This had a definite effect on their will to resist, for if victory is to come only after destruction and enslavement, fewer people are disposed to resist at the outset. I think that it is demonstrable that our ineffectiveness in international policy and in capacity to intervene promptly was a major factor in inducing both Japan and Germany to war as well as an encouragement to the development of their satellite strength.

This strength of ours, so effective when fully exerted, so ineffective when merely in doubtful prospect, cannot continue to stand these strains. Our exertions in the war just concluded, as well as in the First World War, have left their marks upon us. I have already mentioned our national debt. The burden of veteran benefits, interest charges and other obligations growing out of the wars will deeply affect the life of everyone here as well as the life of his progeny. Our national resources have been strained. Oil reserves within the United States have become severely limited. Our coal and ore beds have been materially depleted.

In addition to material resources, we, as well as the world, have suffered great losses in moral values which required centuries of time, treasure and culture to build. There

are, in physical terms alone, large losses of cultural values in which the whole world shares. In large areas of the most highly civilized section of the world cities have been destroyed or vastly damaged. When a city is bombed, the center of impact of the bombs is usually the center of the city and in the center of the city are usually situated the library, the museum, the opera house, the theatres and other similar institutions whose support is the product of centuries of effort.

Each war that occurs extends the perimeter of destruction. England, susceptible only to token Zeppelin attacks in World War I, is now in easy projectile range and is probably more vulnerable than any other country to concentrated air and guided missile attack. Plans were found in Germany for projectiles which could place Pittsburgh under bombardment from Hamburg and today our scientists recognize that this will be feasible within a relatively few years.

I have indicated that it is becoming tiresome to hear about the bomb. But if the fact of the bomb at Hiroshima, Nagasaki and Bikini is not sufficiently convincing, further potentialities of the bomb should be sufficient to startle the most sluggish-minded among us. The bomb dropped at Nagasaki, which was an "improvement" over the Hiroshima bomb (and it was substantially the same type bombs which were exploded at Bikini), was a very crude affair judged by the testimony of the men who made it. It is very crude compared to what they believe is possible by way of purely mechanical improvement. By devices which are comparable to those employed in improving the Nagasaki bomb over the Hiroshima bomb it is certainly possible substantially to increase its destructive power. It is certainly possible to increase the quantity of the fissionable material in the bomb. We talk today of the bomb in terms of the equivalent of twenty thousand tons of TNT. From firsthand information given to me by the scientists whose prophecies

were uncannily accurate during the course of the war, there can be little doubt that within the next ten years, to be conservative, bombs of the power equivalent of one hundred thousand to two hundred and fifty thousand tons of TNT can be made, something over ten times more powerful than the bomb dropped on Hiroshima. And if we can move to the other end of the periodic table and utilize hydrogen in the generation of energy, we would have a bomb somewhere around one thousand times as powerful as the Nagasaki bomb. I have been told by scientists who are not mere theorists but who actually planned and made the bomb which was exploded in New Mexico that, given the same intensive effort which was employed during the war toward the production of that bomb, we were within two years time at the close of the war of producing a bomb of the hydrogen-helium type, i. e., a bomb of approximately one thousand times of the power of the present bombs. The rocket and jet propulsion and biological forces, all infinitely more effective than the general public has yet comprehended, can be added to atomic warfare and with them it does not require much imagination to understand how the rate of extermination on this planet can be radically increased.

All these are the potentialities of some future bomb. If Bikini or anything else has caused any of you to feel that the bomb as we now have it was not so much after all—read Hersey's account of what happened at 9:15 on the morning of August 6 last year in a city on the other side of the world. This was the crudest type bomb of all. We do not use them any more. It is not efficient enough. It only laid waste one city and only killed instantly 80,000 people.

It is weapons such as these which bring us within the deadly perimeter of destruction with a vengeance. But as much as the character of modern weapons, our very position in the world insures that we shall be well

within this perimeter should we have another war.

The center of gravity of the freedom loving nations of the world has moved west. Their reserves of strength lie in this continent. In the recent war Belgium and Holland stood frozen and inert before the threat of Nazi destruction. Their essential power and will to resist gone. How thin the economy and vigor of France had become was made painfully clear in the course of about one year. Even England reached her limit in what seemed to most of us a surprisingly short period. Hers was an enormous contribution. But fairly judged it was only enough to stave off defeat until help could come from further west. The reserves of energy and the springs of action of at least the Western Powers are located here, not in Europe. If another war should ensue I dare say it will never again be said by the isolationists that we are coming to the aid of England or some other country. It will be obvious that it is the strength of this country and its way of living which are the target for attack. It will be from the start that we shall be attacked, and it will be from the start that we shall have to function.

Geographically, we lie between the great masses of the population of the world—those in Asia and those in Europe. In the rehabilitation of Europe and the impending revolution in Asia, there can and will be developed forces capable of vastly retarding or greatly advancing the progress of civilization. They are bound to sweep across our nation, and we shall not be able to stand neutral before them.

There was a stage in the history of the world when a single small city, the limits of which could be reached in a half hour's walk, determined a course of conduct for the world, a course which still enlightens us. What the City of Athens could do for the stimulation of thought and the love of beauty in the world, this great continent of ours surely ought to be able to match in the field of international affairs. But mere protesta-

tions of our desire for peace with spasmodic calls for disarmament conferences will not suffice for the foreign policy of a nation which is to play such a part. Our obligation if we are to survive, is to become an activist, not a pacifist, for peace. We must convince the world not only that we desire peace, but that we are in reality a constant and potent factor for peace.

The only way really to win an all-out war of the future is to prevent it, for such a war has become synonymous with suicide. Our war planners are reported, entirely reliably I believe, to have concluded that they see no satisfactory military defense to atomic warfare. They have been fair and intelligent enough to state their limitations. They have urged strong political action for peace. We need a sound military establishment and a sound political policy—both must be kept modern, well-planned, and well-designed for enforcing peace at no matter what distance from our shores.

Today and for some time past the doctrine has been preached that the capitalistic and democratic countries of the west constitute a menace to world peace. Such was the gist of Premier Stalin's speech of February last, and it was a seriously argued contention. He argued that the disruptive gyrations of our business and economic cycles created potentials of disorder and violence. These inevitably resulted in war, or so it was contended by Stalin. His thesis was that the dictated planning of the Soviet State only could maintain peace. This seems supremely anomalous to us in the light of the dictatorship history and particularly when peace is to be maintained by an NKVD or by any form of secret police oppression. And I profoundly regret that no one in the government answered that challenge at the time—we cannot ignore Stalin's charge. Western states *have* been plunged too frequently into war because of extreme economic nationalism. The world *has* suffered by what someone has called "run-

away capitalism," and since what happens at home and how we govern ourselves at home directly affects what we do abroad, we must correct the evils of our domestic life if we are to be effective abroad. As vigorously as we repudiate the charge, we must be prepared to see, acknowledge, and remedy our ills. We possess and live by principles foreign to the dictator state, principles which are far more popular judged in terms of human instinct than the dictator can afford to tolerate. If we vigorously adhere to these principles at home and abroad, they will finally prevail throughout the world, and they will induce peace. There is no threat to world peace if the principles of freedom, tolerance, and knowledge are also backed by strength.

What does this all mean to the individual and to the family? It means, as I see it, that the individual must think and do as we would have the nation think and do.

The individual must first of all be knowledgeable about the things which affect him, particularly of the forces which operate in his community. To be knowledgeable means to be tolerant. The individual must be alert to share in the redress of the wrongs done to others, and his interest must be measured by the importance of the principle involved, rather than the proximity of the wrong to his personal interest. He cannot judge the merits of such a controversy as some did the Nazi treatment of Czechoslovakia by its geographical "remoteness."

The individual must be prepared to support by his service as well as by his money the maintenance of a sound military establishment representative of our strength and of our principles, and he must be prepared to have this power used as part of a united power for peace. The individual must recognize that his security does not lie solely in his own economic prosperity, but rather in the flow of trade and opportunities for profitable labor and service throughout the world community.

Above all we must believe in our democracy which is a belief in, as well as a knowledge of, human nature. The belief is that given knowledge and opportunity, the composite of human beings can do best by thinking and acting in an atmosphere of freedom. It means believing in all Americans and their welfare, not just our own special groups. It does not mean that all are always good, or that all are always right, but it does mean that in the end, given opportunity and knowledge, the composite instincts of free human beings will form the best basis for peaceful life.

As we are as individuals so shall we be as a nation. We must do and be these things, for our individual failures will mark our national destruction.

We are now at a great crisis in human affairs, for forces have been let loose which can readily destroy us and the progress we have achieved through centuries of effort by almost a single night's bombardment. But in those same forces lie untold benefits for mankind. The emphasis on the destructive powers of this new and fundamental energy has caused us to lose sight of the benefits to mankind which can be unlocked by the application of these new forces. This great new power has within it benefits to mankind quite as spectacular as the destruction of cities and fleets. We are on the verge of understanding the characteristics of elements and forces which constitute the whole basis of energy. We are within touch of understanding and even applying the processes by which the sun gives this earth its very being. All life, all the things we eat, the things we use, are given their existence by this energy. How this energy is created and then transferred into things of benefit to mankind we are on the verge of not only comprehending but of putting into effect at least in some measure by our own efforts. The thrilling thing is that this nation has been in the forefront of this knowledge.

Our role is a great one. We are the Prometheus of the modern world. A force as deadly and as beneficial to mankind as fire has been given to the world through us. The force was brought to utilizable form through the brains and activity of many men and women of diverse nationalities and backgrounds. But it was in the free climate of this country that their full opportunities were presented, and though many aspects of these forces were developed in other nations, certainly the most spectacular evidence of their nature it was given to us to disclose.

We can say with Kipling's Explorer, "It is God's present to the nation. Anybody might have found it, but his whisper came to us." It is difficult to measure our responsibility, but it is one of the most exciting and uplifting challenges which has ever come to any nation and the challenge is thrown to every home.

You who are here today are primarily concerned with security of the home. Through insurance you will be the means by which many individuals will achieve personal security. You and they will be engaged in a futile undertaking unless the same individuals that you seek to aid are themselves seeking to find the means of security for others. It is those whom you insure, those who plan and build for individual security, who hold the greatest stake in this endeavor. If the quest for security does not reach beyond the home, the home will be swept away by the greater flood. I have spoken of impending doom and the thrill of untold progress. It will be the quality of the individual thought and effort as expressed in a free society which will throw the balance. It is your business to think and act in terms of the security of individuals and the family. The insurance investment can only be sound if with each premium that is paid there is an investment made in terms of effort, thought, and service in a *national* policy to insure peace.

*Some Reflections
Upon the Incidence of Federal
Taxation Relating to Policies
of Life Insurance*

By

MAYO ADAMS SHATTUCK

*Member of the firm of Haussermann, Davison &
Shattuck, attorneys-at-law, Boston, Mass.*

IT is the accepted function of commencement speakers, I believe, to "view with alarm" and to preach reform. There is sound reason for that traditional pattern—commencement day is one of those occasions when, quite naturally, a balance sheet may be struck, and when, as Spencer suggested, it is profitable to pause, recapitulate and prepare to recommence. In a broad sense our entire nation, in all of its various professions and ways of life, is presently engaged in this same process. Our military men, business men, doctors, lawyers, teachers, bankers and artists are all occupied today in surveying their problems and uncovering their respective virtues and deficiencies; each with the hope of learning lessons from the past and of approaching the future with renewed and increased determination. At the annual meeting of the American Medical Association this year, for example, a revolutionary program of Public Relations activity was adopted. At the meeting of the House of Delegates of the American Bar Association held at Chicago last July, approval was given to a project to study the position of the American Bar in our national life and to examine and reform the entire national process of legal education and admission to the Bar—all of which led one Chicago newspaper to report to its readers

that "American Lawyers had appropriated \$150,000 to try to find out what they were good for."

I *could*, therefore, on the basis of precedent, urge upon you, as the Life Underwriters of this restlessly progressive nation, a searching process of self analysis and the construction therefrom of numerous sweeping resolves to do better. But I do not intend to do any such ambitious thing. At least one good reason restrains me—a reason, alas, which has not always restrained commencement speakers: my opinion upon so broad a subject would be recognized by everyone as having been evolved unhampered by any considerable knowledge of what I was talking about.

I do have some knowledge, however, about the topic upon which I have chosen to address you, a topic that has lain rather closely within my area of personal activity through now more than twenty-five years of law practice; a topic upon which much has been said in the past and upon which, I hope, much more may be said in the future, for it directly involves, as I see it, the underlying social policy of this Republic and it is directly concerned, therefore, with the individual welfare of millions of our most valuable citizens. It is the topic of our national policy of taxation as it relates to policies of life insurance and their proceeds.

Sometime, before long, our political representatives in Washington must address themselves to the staggering task of examining and correcting the whole diverse body of our laws and regulations and decisions relating to the taxation of incomes, gifts and estates.¹ You must be ready to take your personal part in that process in this free country, for your testimony and advice will be needed, and while everything you have to say will fairly be regarded as impelled in part by

¹ It is expected that the next Congress may launch, during the winter 1946-47 the long delayed and much needed general revision of the Internal Revenue Code. See report of Committee on Federal Law and Legislation, Judd C. Benson, Chairman, Life Association News, April 1946, p. 667.

self-interest, you are in duty bound, nevertheless, to have your say. You and the family groups you directly represent constitute a respectable segment of the Republic.² Moreover, everything about the constitutional and legislative process of a society of free men must be regarded, in last analysis, as grounded in honest and considerate self-interest, and if those who possess an actual self-interest do not make their viewpoints heard throughout the land they must be taken as having allowed to go by default their individual rights as national proprietors. That default is the common process by which free societies approach death and totalitarian regimes are given birth.

What have you and I learned, in the United States, about the place of life insurance in our social framework, and what attitude should we adopt in our national system of taxation toward life insurance as a form of property? In the first place, we know that in 1944 there were slightly over 47,000,000 individual life insurance policies in force in the United States. This in addition to over 100,000,000 industrial policies and about 41,000 group policies. A total, apparently, of nearly 150,000,000 policies in force in this country as of December 31, 1944. All this adds up to \$149,071,406,000 of insurance!³

But dollar values are not conclusive. We must consider the makeup of our body politic and try to discover, as best we can, what forces have given our Republic its far famed motive power and intelligent ambition. Why do we have, today, this magnificent nation about us? Who made the United States as it is today—and in whose hands does our future really lie? This fundamental (and controversial) question has, in recent years, been

² Of the adult male "labor force" of the United States in 1940 of about 37,000,000, there were some 250,000 Insurance Agents and brokers. Add to this the family groups! See 16th Census of the U. S., 1940, "Population, Comparative Statistics for the United States."

³ See Life Insurance Year-Book of "The Spectator, Philadelphia"; also see 1946 World Almanac.

given a variety of answers, most of them altogether too partisan and many positively un-American, so bigoted has been the approach. Thus, the chronically prejudiced Liberty Leaguer would tell you that American capital, unimpeded by Government restriction, has by itself *made* the Republic; that any interference with free enterprise is a step toward national invalidism, and that never again will we stride forth to conquer until capital as a single determining force has been liberated to resume its wild buckaroo battle in the open field. This is palpably silly. Capital has played its part in serving (and in harming) the Republic, but capital holds no exclusive key to sound prosperity in this or in any other country. So, also, there are those strident champions of Labor who at heart are enamored of the concept of dictatorship of the proletariat. Upon that viewpoint much might be said, and is being said, but history, both ancient and modern, produces only one judgment: dictatorship of any minority group, in a free society, is a patent impossibility, both of terms and of fact. We know, therefore, that neither capital alone, nor labor alone, as represented by any groupings with which we are familiar in our history, can fairly claim to have *made* the Republic, nor to have the *sole* right to make it or break it in future. Within recent months and years, there have been attempts to organize still other special groups, groups of taxpayers, groups of consumers, groups of security owners, groups of "tool owners"—not quite "capital" in color and allegiance, not quite "labor"—but groups having individual interests. Each of these groups tends to regard itself as the final and determining factor in the national equation. Some fancy themselves as especially destined custodians of America's future. To all of these various factions it is clear that a part of our future belongs and to each a share of our national power. And, as I have said, it is fitting and proper that each should

speak its piece. But to none as a group could we safely surrender our common destiny. Our common destiny belongs, demonstrably, and has through our past belonged, to a cross section for whom no other name than *good American* can be evolved; a force, as I see it, which is constantly expanding and which, springing from all ways and walks of life, all religions, all party and social affiliations, regularly takes over, after normal American childhood, the leadership in our public and private business, our professions, our arts and sciences. Who are these boys and girls? From what source do they come? They come from mountains and river valleys, seacoasts and forested uplands, the sons and daughters of capital *and* labor *and* tool makers *and* tax payers *and* consumers, all mixed together. They go to high school and to college:⁴ if well to do, they receive allowances from the "old man" or, if lucky enough to be poor, they wait on table in dining commons; they go to night school and learn law, or to day school and are instructed in business; they marry, as early as may be, some attractive specimen of the opposite sex; they read widely and thoughtfully; they prepare an American home in which to live; they try to get along within their budgets; they have children (too few alas); they dislike the concept of economic dependence upon any man or woman; when they hear of an opportunity to advance they study and prepare and qualify and succeed; they do their chores while their more easy-going companions are hanging around the corner drugstore or the pool room. They are not perfect, nor angels, but they are decent, hardworking, ambitious and loyal. They wear no buttons of allegiance to any partisan group—for they need no buttons—they are easily enough identified in every town and city of this nation. *They are good American citizens and they furnish the*

⁴ According to the U. S. Bureau of the Census, in the year 1940, of the whites, 25 years of age and above, over 10,000,000 had completed 4 years of high school; and about 4,000,000 had completed 3 years of college; and about 3,330,000 had completed 4 years of college.

steam under the boilers that propel our beloved ship of state. I say, and I say emphatically, that it is time we *stopped* thinking and talking so much about capital, or labor, or taxpayers or consumers, or tool owners as individual groups; and it is time we *began* thinking and talking about *this* group—the *American citizens* who do their own part and a little, or a great deal, more than their own part, for themselves and their nation. If there is a “forgotten man” in our public scene it is our well-prepared, thoroughly disciplined, strong minded and stout hearted *good American citizen*. The well-remembered man too often has been that one who has consistently asserted his individual claim to social bounty—the one who has allowed himself to reverse Scripture and to come to believe that it is more blessed to receive than to give; the one whose best practiced gesture is the open palm and the shrugged shoulder.

Now think over your communities; whether you dwell in a metropolis or in a remote rural hamlet or township. Do you not recognize the distinction I have made? These good, prudent, intelligent and discreet people, I say, are the motive power of this Republic.⁵ And these people, indeed, are well represented in the very body which must soon revise our national tax structure. We may occasionally scold Congress, and sometimes for its own good and with just desserts. But what on the whole is Congress? Can you not see among the present members of Congress the young business man or professional man who has made his way along, in Colorado, in Indiana, or Pennsylvania; who has worked industriously to found his family and business, who has deprived himself of much early

⁵ According to the Census of the U. S., 1940 Population section, “Comparative Occupation Statistics for the U. S.,” there were, for example, in that year in our “labor force” 21,976 architects; 77,619 authors, editors and reporters; 140,077 clergymen; 75,847 college presidents, professors and instructors; 70,601 dentists; 105,486 civil engineers and surveyors; 180,483 lawyers and judges; 1,076,001 teachers; 371,066 nurses; 5,265,271 farmers; 249,322 insurance agents and brokers.

individual luxury to prepare himself for his rendezvous with destiny; who has served first his town, then his country, then his state; who has finally been chosen to represent his home electorate in Washington, on inadequate pay, in the discouragingly complex atmosphere of Capitol Hill? By and large, with few exceptions, the Congressman is also a *good* American citizen. Perhaps he favors labor; perhaps he favors capital; possibly he has not one theoretical or political allegiance but several; almost certainly he has an abiding conviction that America is worth working for and that while his work is most troublesome and trying and unremunerative he is going to continue to do his best to remain a good American citizen.

Very well—with broad strokes, and few statistics, we have described our national body politic and we have re-discovered what was always the fact, but what few persons are frank enough to declare, viz.: that in every order of every society there are citizens who are good, sound and unselfish people and there are citizens who are not deserving of that description. That, alas, is both the history of the world, and the fact of the world—and particularly of the democratic world. In the tightly knit proletarian state the trains run on time; the drones starve or are clapped in the army; the forgotten man is harnessed to the labor gang and great public and military works are created. In a free society the attempt is made to educate the thoughtless and shiftless ones into unselfish devotion to the state; by incentive rewards; by protection from what are euphemistically called adverse strokes of fortune—the kindly thought is constantly borne in mind that human beings are both mortal and fallible and the strong are expected to succor the weak; the wealthy are expected to share with the poor. The balanced weighing of these social attitudes into a well proportioned combination of justice and generosity is the fundamental process of a free society. Too much incentive and

reward for the good citizens, too little thought for the weak ones and the Republic descends into fascism; too much solicitousness for the weak ones and too little recognition of the merits of the good citizens and the Republic degenerates into dictatorship of the proletariat.

The question before the Congress, when it comes to examine the effect of Federal Taxation upon the life insurance of this country, is how to adjust the incidence of the tax burden so that a proper and fair incentive is given to the *good* citizens of this nation to protect themselves and their loved ones against adverse strokes of fortune—and yet not to give an undue advantage to persons who already have large economic power. I intend to make some suggestions in that respect, not new in any way but of such fundamental importance, so it seems to me, that no opportunity should be lost to present the argument in all of its phases, at all times where the public ear is attentive.

Let us return, again, to our young man who is working up and along on the business and professional high road of life in any corner of any state in this country. He has toiled at his educational process (and perhaps in the armed services) until he is in his middle twenties. He is married and has two children—we can hope he may have a total of four or more—but it is common knowledge that economic factors are likely to deter or abort that desirable event. He is buying a modest home, chiefly out of his earnings. He hopes for a summer home someday, but that, at present, is beyond him. He has set out upon a life insurance program, for he instinctively understands that he is not only expected by his taxes to help carry the social load for those less fortunate than himself but that it is his primary duty as a good citizen not to transfer any part of his individual problem to anyone else. He would like to choose his life employment in a way which gives him a maximum of independence and

opportunity for self-expression. He does not wish, when considering a job, to allow his choice to be governed by the extent of retirement income which is offered by the prospective employer. He very often dreams of the possibility, after his earning days have progressed to the point of safety, of participating more in good works or in public affairs or both. He is considering *himself* in a normal and healthy way, but it is characteristic of him that he is also considering others and his nation—for he instinctively believes that only if the good citizens of the Republic do their share of the public business can we expect good government. He desires rather fiercely that his children shall be not only protected but also well prepared for their turn in American history. Now what is his economic problem? Consider him in any walk of life you choose; as a teacher, as a minister, a news reporter, an accountant, a dentist, a lawyer, a banker, a so-called junior business executive, an insurance man, the proprietor of a small factory or store, a salesman or investment adviser. The nation teems with these young men, brave, alert and intelligent. And they are, today, in the very deuce of a fix. By and large they are the very first victims of inflation. By and large they have no social security worthy of the name. By and large they are underpaid.⁶ By and large, I verily believe, they are the hope of the Republic for their sterling virtues. By and large, it happens, they are the potential life insurance purchasers of the nation. But by and large they are prevented from purchasing anything like the amount of insurance they really need because so large a percentage of their income goes to discharge their duty to support the government and to care for the

⁶ Received	Professional and Semi-Professional	Clerical, Sales	Craftsmen, Foremen, etc.
\$ 100-999	9,424	24,513	6,156
1000-1199	95,538	709,246	272,435
2000-2400	196,376	553,025	420,633
	% of total in field		
2500-2999	7.9	3.5	5.7
3000-4999	14.4	4.	4.2
5000-or over	6.1	1.2	.3

dependents of others that they just don't have enough income left over to purchase adequate protection for their own.

It was very right and proper for Erwin Griswold in October of 1942 to warn the Legal Section of the American Life Convention of "the abuse by many life insurance companies and many life insurance agents in selling life insurance as a means of tax avoidance." His remarks, on that occasion, became somewhat famous among you.⁷ He rendered a service not only to your profession but also to mine. He did much to destroy the damage which Oliver Wendell Holmes had unintentionally done by drawing an eloquent and seductive line between legitimate tax avoidance and inexcusable tax evasion. Given the great need for national revenue to which Dean Griswold referred a good citizen should bear in mind that continued and widespread tax avoidance must be corrected even more quickly than occasional tax evasion; for it is a much more dangerous threat.

I not only have no disagreement, therefore, with what Dean Griswold had to say in 1942; indeed I think I might well have been less temperate than he in dealing with the evils which he then described. Certainly I agree with his final conclusion that the real function of life insurance is to furnish protection to the average American families, which demonstrably need protection.⁸ I might also mention here, however, what has become abundantly clear since 1942, viz.: that there is a secondary sound function of life insurance even when one deals with rich men. Aside from furnishing protection to the surviving family of the assured, and thus lightening the burden of government in that respect, life insurance also puts into the hands of the good citizen, by the sweat of his own brow

⁷ For an account of Dean Griswold's remarks see "Life Insurance & Taxes," by E. Albert Gilbert, *Your Investments*, Vol. VI, No. 12, Dec. 1945.

⁸ "Insurance for dependents is today, in the thought of many, a pressing social duty. It is a common item in the family budget, kept up very often at the cost of painful sacrifice, and abandoned only under dire compulsion." Cardozo J. in *Burnett v. Wells*, 289 U. S. 670 (1933).

exclusively, the liquid means of discharging his social obligation to contribute to the protection of those less fortunate than himself.

There are, so far as I know, no readily interpretable statistics which tell us what proportion of the families of the class of people of whom I speak have depended upon proceeds of life insurance for their continued existence as a working part of our free society. But I doubt that statistics are needed. You know, from your actual experience, and I certainly know from mine, that it is an important proportion. Indeed, you know as I do that if death overtakes the young American good citizen much before he is forty years of age, or even forty-five, the bulk of his protective mechanism *must* lie in his insurance. And as everyday workers in the field we are becoming increasingly aware also of the secondary aspect of insurance usability. How often do you see, these days, the proceeds of insurance used promptly and effectively to settle estate tax obligations? And where do those payments go, after receipt by Washington? Why, of course, into the working funds of our national government and into the social services which our government performs for the less fortunate ones among us.

So that, therefore, when we take as our examples of good American citizenship either a forty year old among you, or a forty year old doctor (approximately ten years out of medical school and apprenticeship), or a forty year old teacher in high school, college or professional school, or a forty year old lawyer, or accountant, or musician, or business man, or Congressman indeed—we know that although we are likely to find a number of varying factors (some will be earning more, some less, some will be well, some not well, some will have pressing family problems, some not so pressing, some will have long and brilliantly productive careers, some will die early) they are nevertheless practically certain to have these characteristics in common:

First: they will have deprived themselves of luxuries in order to buy life insurance;⁹

Second: they will depend very largely, for the protection of their families, upon the proceeds of their life insurance;¹⁰

Third: if they have been luckier than the others and will leave other substantial means at death then their life insurance is likely to be devoted to pay their estate taxes, and

Fourth: unless they have been much luckier than the others they are presently having the very deuce of a time to make both ends meet, against present rising prices, and yet keep these valuable life insurance policies in effect. If you don't believe so, ask any Congressman about his own personal budget, or any professor of law.

The question now is whether from the standpoint of these good citizens, taking thoroughly into account, also, the broad interests of the Republic, any change should be made in the incidence of Federal taxation with relation to policies of life insurance.

Your very able Committee on Federal Law and Taxation opens its current report, under the title "General Tax" Policy¹¹ with the hopeful statement that

⁹ Must this not be so? See figures published in 1934 by The Brookings Institution, prepared by Maurice Leven, Harold G. Moulton and Clark Warburton under the title "America's Capacity to Consume" relative to 1929: of families of 2 or more

21.5%	earned under \$	1000
38 %	"	1000-2000
8.9%	"	3000-4000
4.5%	"	4000-5000
5.9%	"	5000-10,000
2.3%	"	10,000-and over

¹⁰ And according to Harold F. Clark's study "Life Earnings in selected occupations in the U. S." (Harper & Brothers, 1937): average annual earnings over the 16 year period 1920-1936 were low.

Occupation	Length of Working Life	Age Period	1920-1936 Average Family Earnings
Architecture	43	33-65	\$3820
College teaching	44	25-69	2770
Dentistry	45	24-69	4170
Engineering	43	22-65	4410
Journalism	46	23-69	2120
Law			3600
Ministers	44	25-69	1980
Nursing	30	21-51	1310
Social Work	45	20-65	1650

¹¹ Report of the Committee on Federal Law and Legislation, 1946. Life Association News, April 1946.

"It is imperative for the economic welfare of the Country that the Congress and the various departments of the government abide by the fundamental conception that taxes should be levied to produce revenue to meet the expenses of government and should not be used as an instrument of social reform."

It adds that

"It is evident that in recent years we have strayed far from that *original* concept."

Well, I am by no means sure of the meaning of the word "*original*." But I am sure that from the opening day of this Republic taxes have been used as an instrument of social reform, and I am doubly sure that they are going to be so used straight through the history of each and every government ordained by man, now and hereafter, on this weary planet. And I venture to add that it is right that they should be so used. Without referring to the income tax statutes specifically, or the estate tax statutes, or to the tariff, or to excise taxes, or to the poll tax laws, or to conservation imposts of one sort or another, I can only conclude that your Committee must mean that government shouldn't collect money from its citizens which it doesn't fairly need for the sole purpose of correcting social faults. But who ever heard, in this increasingly socialistic age, of money which the government doesn't need? I don't believe really, that it can any longer be said, if it ever could be soundly said, that taxation should be utilized for revenue only. The way to express that ancient adage it seems to me is to say that whenever it is decided what sum the government needs to pay for those functions which the people wish it to exercise, all pains should be taken to collect it upon a tax basis adjusted to accomplish the maximum social good.

If that is a sound analysis of our method of approach, what steps should the Congress take on behalf of the good American citizens of whom we have been speaking, always in justice to all other Americans and always

within the sound limits of the national needs? They seem to me clear.

First: The entire tax structure should be scrutinized to prevent, so far as humanly possible, the use of insurance proceeds for any purpose of tax evasion and for any widespread use, by persons of large property, of tax avoidance. All present existing differentials in favor of rich men by the use of life insurance, if there be any, should be removed—but

Second: There should be adopted, forthwith, an incentive by means of income tax deduction within controlled specific limits, which would enlarge the opportunity of the good American citizen of average earning power and modest property to care for his own. There are, very likely, several ways to approach this desirable end. Possibly a direct credit might be granted in a limited amount. Possibly an extra credit should be allowed to those groups who, because they do not participate in employer-employee retirement programs, must find ways and means, often by purchase of retirement annuities, to set up their own old age protection. Let us not fool ourselves. We have two courses which we may follow. We can either extend government bounty to superannuated persons in a truly *fair* manner so that *everyone*, including the great classes of good citizens of which I have been speaking, becomes eligible—or we can provide by social means for those who cannot satisfactorily provide for themselves, and give a corresponding incentive to those who are determined to provide, and do provide, for themselves. Of these two courses, the latter is distinctly in accord with the traditions of the Republic and the instincts of our people. I will not undertake to specify amounts of the credits or the mechanics of their ascertainment. I speak merely of the principle. I repeat that if the young good citizen of this Nation is given help, within just limits, to protect his own family unit, he will receive not only what he richly de-

serves but he will also do better work for the Republic itself and the prospective burden of our government will by that much be reduced. I am not impressed with the argument that such an incentive program would be discriminatory in nature and hence intolerable to us. Of course it is discriminatory in some senses. But what of that! Every tax program, every subsidy, is in *some* sense discriminatory. The point is that there are several valid reasons for *this* discrimination (if one must use an ugly word), the first and foremost being that any great group of good citizens who, by their common resolve and common action on insurance principles, take care of their own, have greatly eased the burden of government. The second, and equally obvious, is that one discrimination, such as presently exists *against* the "self-employed" group, deserves another—to correct it at least in part. There is no sound reason why a self-employed individual who is not able to qualify under an established pension plan should not receive, when he undertakes to establish his own retirement plan, the same income tax deduction benefits which are granted to other employers in accordance with present regulations. Goodness knows those very deductions are an admitted part of an incentive program. Let incentives be distributed, if they are to be made available at all, with a minimum of discrimination! This position, demonstrably fair and sensible, can scarcely fail to commend itself to the members of our Congress who, by and large, are themselves members of the self-employed group. For Congressmen also have families and Congressmen, also, have retirement problems, and Congressmen, also, know that income tax rates are so high that it is a virtual impossibility for persons in the middle income brackets to accumulate an estate which will furnish a retirement income of anything like the annuities yielded under qualified pension or retirement plans. It all comes down, at long last, to this simple

choice—Shall we as a Republic of free men arrange things so that we all look to our government to support us and our dependents when our earning days are done, or shall we attempt to make it possible, so far as we can, for our industrious good citizens, to accomplish that aim themselves?

Third: The special insurance exemption from the Estate Tax should be restored in a fair and reasonable amount. The instinct was a sound one which placed it in the Estate Tax Statute in the first place. There must be limits, to be sure, and possibly the amount of the exemption should be coupled to the size of the estate. But all of the arguments which I have advanced for an incentive deduction from income taxation are equally applicable here and there are other arguments which are just plainly unanswerable. The fact is that insurance, by its very nature, is a disaster fund. Its office is to bridge a gap, for a group of dependent people, when the forces upon which they have relied are suddenly snatched from them. To allow them to have that protection free of impost is to encourage its use. Where insurance exists the shock upon our whole social fabric which inevitably ensues upon death is smoothed out and leveled off. If every sort of moratorium and waiting period and resuscitation mechanism is provided for American business, from mortgagor to railroad; to ease the disruptive force of sudden economic decline and collapse, there is every reason why a thoughtful Republic should approve and encourage the creation of anti-shock mechanisms for its individual proprietors of proven worth. It is not so much that the restoration of this exemption would save a considerable number of dollars in any given estate. It is that its restoration would spur and suggest full performance of the duty of every good citizen to provide for the future. Here again I am not impressed by the argument of discrimination. If it is the policy of the Republic, as it ought to be, that its good citizens should

shoulder their own load and a little more, the Republic must make it understood that good citizenship has a reward.

Fourth: While it is by no means so important a matter, nor so based upon grounds of social philosophy or policy, it is probably true that life insurance earmarked for the specific purpose of paying federal estate taxes, and in fact devoted to paying those taxes, should receive some favorable treatment, either by exemption from inclusion in gross estate or otherwise. It is in a sense a funding or amortization of the inevitable tax burden. But more importantly, it represents cash in a pinch and it helps us all. It is very well to hope that at all times in the future all of us will have plenty of money and that our taxes will always be paid on time and in full. Perhaps that will always be true. More likely it won't. We all know that one of the most successful ways of forcing a compromise with creditors, especially on the part of bad citizens, is simply not to have enough money to pay them. A good way to make it more certain that there will be enough money to pay them with a minimum of social shock is to offer an incentive for having the money. This may sound somewhat Machiavellian and rooted in the fear of fraud. But it isn't, really—it is nothing but a realistic approach. The old fashioned bag of candy on grocery payment day and the discount for cash now generally granted by American business were not the invention of simple minded persons. They were shrewd appraisals of the habits of mortal men. As proprietors of a Republic which needs money, at par and without delay, we might well consider the wisdom of granting a discount for cash wherever there is legal assurance that the cash is available when due.

Finally: There are incidents of the present tax statutes which cry aloud for overhauling. Some, like the unjustifiable discrimination against insurance which arises out of the adoption of the so-called "premium payment

test" are self demonstrating monstrosities, which are very harmful to owners of insurance.¹² Some, like the present treatment of interest payments on option settlements are very likely too generous to the taxpayer. These, however, are the distorted products of history, which need adjustment and probably will receive it, on any general revision. These do not disturb me—they do not go to the root of anything.

What does disturb me, to bring these remarks to a conclusion, is that we have been most unrealistic and shortsighted as proprietors of a great nation, in failing to urge our good young citizens to get ready to do their own parts, and a little more, for our common good. We have been guilty, I fear, of forgetting what it is that has made us strong. We have not been keeping in mind that in a society of free men the good and the strong citizens, the leaders to come in private and public affairs, are not to be neglected and forgotten without peril to the whole establishment. We must contrive our system of taxation, as it concerns a universal tool of family protection like insurance, so that our good citizens are everywhere encouraged in their planning for future protection. For in the hands of our good citizens our future lies. If they lose interest, or their determination to take care of their own, the Republic is lost.

¹² See Report of The Committee on Taxation of the Association of the Bar of New York, Roswell Magill, Chairman, dated June 15, 1946. This report is being given wide circulation. It is abstracted in CCH Business and Estate Insurance Reports, ¶2401.